



**BILLING CODE: 3510-22- P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**[Docket No. 140710572-4572-01]**

**Privacy Act of 1974:** System of Records

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice of Proposed Amendment to Privacy Act System of Records:  
“COMMERCE/NOAA-15, Alaska Region - North Pacific Groundfish Observer Program: Certified Domestic Observer Final Evaluations.”

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended, the Department of Commerce proposes to amend the system of records entitled “COMMERCE/NOAA-15, Alaska Region - North Pacific Groundfish Observer Program: Certified Domestic Observer Final Evaluations” to expand the number and types of evaluations, which will be used to identify the observers; provide input on observer evaluations; change the name of the system of records to “COMMERCE/NOAA-15, Monitoring of National Marine Fisheries Service Observers;” update routine uses; and generally update the system’s notice. We invite public comment on the amended system announced in this publication.

**DATES:** To be considered, written comments must be submitted on or before [INSERT DATE 30 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]. Unless comments are received, the amended system of records will become effective as proposed on the date of publication of a subsequent notice in the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Lee Benaka at (301) 427-8554.

**ADDRESSES:** Comments may be mailed to Lee Benaka, National Marine Fisheries Service (F/ST4), 1315 East West Highway, Silver Spring, MD 20910. Email comments may be submitted to [Observers.PrivacyAct@noaa.gov](mailto:Observers.PrivacyAct@noaa.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4) and (11), the National Marine Fisheries Service (NMFS) proposes this amendment is to expand the amount of information NMFS maintains on its observers. Specifically, NMFS proposes to expand the number of observer evaluations and the type of observer evaluations collected, and will store these evaluations with other observer personal records, which will be used to identify the observers; provide input on observer evaluations; and change the title of the system of records to better reflect the scope of the system of records. To implement these amendments, NMFS proposes to change the name of the system of records from “COMMERCE/NOAA-15, Alaska Region - North Pacific Groundfish Observer Program: Certified Domestic Observer Final Evaluations” to “COMMERCE/NOAA-15, Monitoring of National Marine Fisheries Service (NMFS) Observers”; amend certain provisions concerning the purpose of the system of records; update categories of individuals and records covered by the system; update the routine uses of the system; change procedures governing retrieval, storage, retention, disposal, and safeguards of the records in the system; and make other minor administrative updates.

NMFS deploys fishery observers to collect catch and bycatch data from U.S. commercial fishing and processing vessels. The authority to place observers on

commercial fishing and processing vessels operating in U.S. fisheries is provided by the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammal Protection Act, and the Endangered Species Act. These acts require the government to collect data on activities which affect marine resources. NMFS certifies, permits, and hires observers via observer provider companies, in order to place observers aboard U.S. commercial fishing and processing vessels. NMFS handles all observer-collected fisheries data and instructs and debriefs observers. High-quality data are essential to the successful management of these fisheries, and therefore, NMFS is creating a system of records to monitor the performance of observers. Through the routine use provision of the Privacy Act, NMFS will be sharing individual observer performance evaluations with each observer's employer (observer provider). This will enable observer providers to hire the best performing observers, which in turn helps to ensure that the highest-quality observer data will be collected.

NMFS created a system of records in October, 2001, to monitor the performance of observers in the Alaska region. Since that time, NMFS has made several changes to observer programs nationwide, which requires additional personal information to be collected and maintained by each of the regional observer programs. First, NMFS changed the qualifications and educational requirements for observer applicants in order to improve the caliber and suitability of applicants. Second, NMFS began issuing certifications (permits) to observers in the Alaska region, which in turn brought legal requirements for the certification and decertification process. Third, NMFS began to collect more information relating to the performance of observers in order to justify the

termination of an observer for performance reasons or, in the case of Alaska, to deny an applicant's certification or the revocation of an observer's permit (decertification). The amendments proposed in this notice implement these changes.

**System Name:** COMMERCE/NOAA-15, Monitoring of National Marine Fisheries

Service Observers

**Security Classification:** None

**System Location:**

- a. NMFS Alaska Fisheries Science Center, 7600 Sand Point Way NE, Seattle, WA 98115-0070.
- b. NMFS Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02453-1097.
- c. NMFS Southeast Fisheries Science Center, 4700 Avenue, Galveston, TX 77551-5997.
- d. NMFS Northwest Fisheries Science Center, 2725 Montlake Boulevard East, Seattle, WA 98115-0070.
- e. NMFS West Coast Region, 501 West Ocean Boulevard, Long Beach, CA 90802-4213.
- f. NMFS Pacific Islands Region, 1845 Wasp Boulevard, Building 176, Honolulu, HI 96818.

**Categories of Individuals Covered by the System:**

National Marine Fisheries Service observers.

**Categories of Records in the System:**

Home address and phone number; email address; date of birth; previous (maiden) name; identification photo; resume and college transcript(s), date of last physical (medical exam) and criminal history; information concerning work-related injuries or illness; deployment and sampling (work effort) history; training and briefing history; performance comments concerning training, briefing, mid-cruise debriefing and final debriefing, logistics and data editing, along with final debriefing evaluations; performance comments from vessel/plant operator(s); observer certification denial and certification records.

**Authority for Maintenance of the System:**

Magnuson-Stevens Fishery Conservation and Management Act, as amended, Public Law 109-479; 16 U.S.C. 1853; implemented at 50 CFR 679.50.

**Purpose(s):**

The purpose of this system is to assemble in one system the necessary information to enable NMFS to access contact information in the event of an emergency involving an observer; contact an observer after their final debriefing, concerning the data they collected or possible fisheries violations they may have witnessed; identify an observer; provide identification badges to observers; allow observer resumes, transcripts, date of last physical (medical exam) and criminal history to be submitted to NMFS by the observer's employer (observer provider); access information concerning observer's work-related injuries or illness; access observers sampling questions/problems, fishing schedules, etc., which must be preserved for future reference as a communications log; access observer deployment and sampling (work effort) histories; access observer

experience qualifications required in Federal regulation at 50 CFR 679.50 (j)(1)(v)(D) for certain vessel and fishery classifications; access observer training and briefing histories; access observer performance comments concerning training, briefing, mid-cruise debriefing and final debriefing, logistics and data editing, along with final evaluations; and access individual observer performance comments from vessel/plant operator(s).

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:**

1. NMFS will make available to each observer provider, a NMFS-generated final evaluation, containing the information described below, for each observer deployment made under contract with that observer provider. Observer final evaluations are completed by observer program staff or authorized persons under contract with the observer program, for each observer upon the completion of each deployment. A deployment is a period of time when an observer is assigned to work aboard a fishing vessel(s) or at a shoreside plant(s). The final evaluations include the following information: observer name; observer provider name; debriefer name; cruise number; future training recommendation; mid-cruise briefing requirement; debriefing dates; cruise deployment history, including vessel or shore-side plant names, and dates deployed to each; deployment scores; and a narrative evaluating the observer's performance.
2. At NMFS discretion, NMFS-generated performance comments concerning training, briefing, mid-cruise debriefing and final debriefing, logistics and data editing, will be made available to an observer provider for the observer under contract with that observer

provider. Observer performance comments are completed by observer program staff or authorized persons under contract with the observer program.

3. NMFS will make available upon request by an observer provider, an observer's final evaluation(s), deployment history and sampling (work effort) history for any observer they are considering for future employment. Observer deployment and sampling histories contain the observer's name and the following information for each vessel and shoreside plant assignment: vessel/plant name, cruise number, embark and disembark dates, number of days aboard each vessel/plant, number of collection days, number of hauls or sets sampled by vessel type, number of days at shore-side plants, year of deployment, name of employer (observer provider), evaluation score and indication of whether the observer worked alone or as the lead or second observer.
4. Alaska Fisheries Science Center only: will provide observer candidate certification denial records to the employer (observer provider) of any candidate that fails training. Certification denial records consist of a letter of certification denial and training performance records supporting the certification denial, such as exam scores, instructor comments and other records describing deficiencies in performance during training.
5. In the event that information in this system of records indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or contract, or rule, regulation, or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating

or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule, regulation or order issued pursuant thereto, or protecting the interest of the Department.

6. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

7. A record in this system of records may be disclosed to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

8. A record in this system of records may be disclosed to the Department of Justice in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

9. A record in this system of records may be disclosed to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

10. A record from this system of records may be disclosed to the Administrator, General Services, or his designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.* GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.



11. A record in this system of records may be disclosed to appropriate agencies, entities, and persons when (1) it is suspected or determined that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identify theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and to prevent, minimize, or remedy such harm.

**Policies and Practices for Storing, Retrieving, Accessing, Retaining and Disposing of Records in the System:**

**Storage:** Records are stored electronically on computers and/or as paper records in file folders individually named and kept in secure file cabinets.

**Retrievability:** Observers are assigned individual observer identification numbers and individual "cruise" (or deployment) numbers. Records can be electronically retrieved by observer name, observer identification number or cruise number.

**Safeguards:** Grounds and buildings employ security systems. Where electronic information is retrievable by computer or other mode of electronic information retrieval, all safeguards appropriate to secure the computer database or other system of storing electronic information, including hardware and software, are utilized. Paper records are maintained in secured file cabinets in areas that are accessible only to authorized

personnel. Observer providers, to whom access to some of this information is granted in accordance with this system of records routine use provision, are instructed on the confidential nature of this information.

**Retention and disposal:** Retention and disposal is in accordance with the National Archives and Records Administration and the Department of Commerce record keeping procedures.

**System Manager(s) and Address:**

Division Director for the Fisheries Monitoring and Analysis Division, North Pacific Groundfish Observer Program, Alaska Fisheries Science Center, 7600 Sand Point Way NE, Seattle, WA 98115-0070.

Northeast Fisheries Observer Program Manager, NMFS Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543-1097.

Southeast Fisheries Observer Program Manager, NMFS Southeast Fisheries Science Center, 4700 Avenue, Galveston, TX 77551-5997.

Northwest Fisheries Observer Program Manager, NMFS Northwest Fisheries Science Center, 2725 Montlake Boulevard East, Seattle, WA 98115-0070.

West Coast Region Observer Program Coordinator, NMFS West Coast Region, 501 West Ocean Boulevard, Long Beach, CA 90802-4213.

Pacific Islands Fisheries Observer Program Manager, Pacific Islands Region, 1845 Wasp Boulevard, Building 176, Honolulu, HI 96818.

**Notification Procedures:** Privacy Act information contained in this system of records may be requested from the system manager at the address above and must be approved

by the Office of General Counsel, NOAA. A requestor, including an observer seeking information about himself or herself, should provide name, address, date of application, and record(s) sought, pursuant to the inquiry provisions of the Department of Commerce's rules which appear in 15 CFR part 4b—Privacy Act.

**Record Access Procedures:** Requests from individuals should be addressed to: Same address of the desired location as stated in the System Manager section above.

**Contesting Record Procedures:** The Department's rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear in 15 CFR part 4b—Privacy Act.

**Record Source Categories:** Fisheries observers, observer providers and observer program staff.

**Exemptions Claimed for the System:** None

Dated: July 25, 2014.

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Brenda Dolan,  
Department of Commerce.  
Freedom of Information /Privacy Act Officer/

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